

105TH CONGRESS
1ST SESSION

S. 600

To protect the privacy of the individual with respect to the social security number and other personal information, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 16, 1997

Mrs. FEINSTEIN (for herself and Mr. GRASSLEY) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To protect the privacy of the individual with respect to the social security number and other personal information, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Personal Information
5 Privacy Act of 1997”.

6 **SEC. 2. CONFIDENTIAL TREATMENT OF CREDIT HEADER**
7 **INFORMATION.**

8 Section 603(d) of the Fair Credit Reporting Act (15
9 U.S.C. 1681a(d)) is amended by inserting after the first

1 sentence the following: “The term also includes any other
 2 identifying information of the consumer, except the name,
 3 address, and telephone number of the consumer if listed
 4 in a residential telephone directory available in the locality
 5 of the consumer.”.

6 **SEC. 3. PROTECTING PRIVACY BY PROHIBITING USE OF**
 7 **THE SOCIAL SECURITY NUMBER FOR COM-**
 8 **MERCIAL PURPOSES WITHOUT CONSENT.**

9 (a) IN GENERAL.—Part A of title XI of the Social
 10 Security Act (42 U.S.C. 1301 et seq.) is amended by add-
 11 ing at the end the following:

12 “PROHIBITION OF CERTAIN MISUSES OF THE SOCIAL
 13 SECURITY ACCOUNT NUMBER

14 “SEC. 1146. (a) PROHIBITION OF COMMERCIAL AC-
 15 QUISSION OR DISTRIBUTION.—No person may buy, sell,
 16 offer for sale, take or give in exchange, or pledge or give
 17 in pledge any information for the purpose, in whole or in
 18 part, of conveying by means of such information any indi-
 19 vidual’s social security account number, or any derivative
 20 of such number, without the written consent of such indi-
 21 vidual.

22 “(b) PROHIBITION OF USE AS PERSONAL IDENTI-
 23 FICATION NUMBER.—No person may utilize any individ-
 24 ual’s social security account number, or any derivative of
 25 such number, for purposes of identification of such indi-
 26 vidual without the written consent of such individual.

1 “(c) PREREQUISITES FOR CONSENT.—In order for
 2 consent to exist under subsection (a) or (b), the person
 3 engaged in, or seeking to engage in, an activity described
 4 in such subsection shall—

5 “(1) inform the individual of all the purposes
 6 for which the number will be utilized and the per-
 7 sons to whom the number will be known; and

8 “(2) obtain affirmatively expressed consent in
 9 writing.

10 “(d) EXCEPTIONS.—Nothing in this section shall be
 11 construed to prohibit any use of social security account
 12 numbers permitted or required under section 205(c)(2) of
 13 this Act, section 7(a)(2) of the Privacy Act of 1974 (5
 14 U.S.C. 552a note; 88 Stat. 1909), or section 6109(d) of
 15 the Internal Revenue Code of 1986.

16 “(e) CIVIL ACTION IN UNITED STATES DISTRICT
 17 COURT; DAMAGES; ATTORNEYS FEES AND COSTS; NON-
 18 EXCLUSIVE NATURE OF REMEDY.—

19 “(1) IN GENERAL.—Any individual aggrieved
 20 by any act of any person in violation of this section
 21 may bring a civil action in a United States district
 22 court to recover—

23 “(A) such preliminary and equitable relief
 24 as the court determines to be appropriate; and

25 “(B) the greater of—

1 “(i) actual damages; and

2 “(ii) liquidated damages of \$25,000

3 or, in the case of a violation that was will-

4 ful and resulted in profit or monetary gain,

5 \$50,000.

6 “(2) ATTORNEY’S FEES AND COSTS.—In the

7 case of a civil action brought under paragraph (1)

8 in which the aggrieved individual has substantially

9 prevailed, the court may assess against the respond-

10 ent a reasonable attorney’s fee and other litigation

11 costs and expenses (including expert fees) reasonably

12 incurred.

13 “(3) STATUTE OF LIMITATIONS.—No action

14 may be commenced under this subsection more than

15 3 years after the date on which the violation was or

16 should reasonably have been discovered by the ag-

17 grieved individual.

18 “(4) NONEXCLUSIVE REMEDY.—The remedy

19 provided under this subsection shall be in addition to

20 any other lawful remedy available to the individual.

21 “(f) CIVIL MONEY PENALTIES.—

22 “(1) IN GENERAL.—Any person who the Com-

23 missioner of Social Security determines has violated

24 this section shall be subject, in addition to any other

25 penalties that may be prescribed by law, to—

1 “(A) a civil money penalty of not more
2 than \$25,000 for each such violation, and

3 “(B) a civil money penalty of not more
4 than \$500,000, if violations have occurred with
5 such frequency as to constitute a general busi-
6 ness practice.

7 “(2) DETERMINATION OF VIOLATIONS.— Any
8 violation committed contemporaneously with respect
9 to the social security account numbers of 2 or more
10 individuals by means of mail, telecommunication, or
11 otherwise shall be treated as a separate violation
12 with respect to each such individual.

13 “(3) ENFORCEMENT PROCEDURES.—The provi-
14 sions of section 1128A (other than subsections (a),
15 (b), (f), (h), (i), (j), and (m), and the first sentence
16 of subsection (c)) and the provisions of subsections
17 (d) and (e) of section 205 shall apply to civil money
18 penalties under this subsection in the same manner
19 as such provisions apply to a penalty or proceeding
20 under section 1128A(a), except that, for purposes of
21 this paragraph, any reference in section 1128A to
22 the Secretary shall be deemed a reference to the
23 Commissioner of Social Security.

24 “(g) REGULATION BY STATES.—Nothing in this sec-
25 tion shall be construed to prohibit any State authority

1 from enacting or enforcing laws consistent with this sec-
 2 tion for the protection of privacy.”.

3 (b) EFFECTIVE DATE.—The amendment made by
 4 this section applies with respect to violations occurring on
 5 and after the date which is 2 years after the date of enact-
 6 ment of this Act.

7 **SEC. 4. RESTRICTION ON USE OF SOCIAL SECURITY NUM-**
 8 **BERS BY STATE DEPARTMENTS OF MOTOR**
 9 **VEHICLES.**

10 (a) RESTRICTION ON GOVERNMENTAL USE.—Section
 11 2721(b)(1) of title 18, United States Code, is amended
 12 by striking “its functions.” and inserting “its functions,
 13 but in the case of social security numbers, only to the ex-
 14 tent permitted or required under section 205(c)(2) of the
 15 Social Security Act (42 U.S.C. 405(c)(2)), section 7(a)(2)
 16 of the Privacy Act of 1974 (5 U.S.C. 552a note, 88 Stat.
 17 1909), section 6109(d) of the Internal Revenue Code of
 18 1986, or any other provision of law specifically identifying
 19 such use.”.

20 (b) PROHIBITION OF USE BY MARKETING COMPA-
 21 NIES.—Section 2721(b)(12) of title 18, United States
 22 Code, is amended by striking “For” and inserting “Except
 23 in the case of social security numbers, for”.

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